

Orin Snyder (*pro hac vice*)  
osnyder@gibsondunn.com  
GIBSON, DUNN & CRUTCHER LLP  
200 Park Avenue  
New York, NY 10166-0193  
Telephone: 212.351.4000  
Facsimile: 212.351.4035

Joshua S. Lipshutz (SBN 242557)  
jlipshutz@gibsondunn.com  
GIBSON, DUNN & CRUTCHER LLP  
1050 Connecticut Avenue, N.W.  
Washington, DC 20036-5306  
Telephone: 202.955.8500  
Facsimile: 202.467.0539

Kristin A. Linsley (SBN 154148)  
klinsley@gibsondunn.com  
Brian M. Lutz (SBN 255976)  
blutz@gibsondunn.com  
GIBSON, DUNN & CRUTCHER LLP  
555 Mission Street, Suite 3000  
San Francisco, CA 94105-0921  
Telephone: 415.393.8200  
Facsimile: 415.393.8306

*Attorneys for Defendant Facebook, Inc.*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

IN RE: FACEBOOK, INC. CONSUMER  
PRIVACY USER PROFILE LITIGATION,

This document relates to:

ALL ACTIONS

CASE NO. 3:18-MD-02843-VC

**NOTICE OF MOTION AND MOTION BY  
DEFENDANT FACEBOOK, INC. TO  
DISMISS PLAINTIFFS' FIRST  
AMENDED CONSOLIDATED  
COMPLAINT**

Judge: Hon. Vince Chhabria  
Courtroom 4, 17th Floor  
Hearing Date: May 29, 2019, 2018  
Hearing Time: 10:30 a.m.

**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE THAT**, on May 29, 2019, at 10:30 a.m., before the Honorable Vince Chhabria of the United States District Court for the Northern District of California, in the San Francisco Courthouse, Courtroom 4, 17th Floor, 450 Golden Gate Avenue, San Francisco, California 94102, Defendant Facebook, Inc. will and hereby does move the Court for an order dismissing certain claims alleged in Plaintiffs' First Amended Consolidated Complaint, consistent with Pretrial Order No. 12: Prioritization of Claims, Dkt. 190. This motion is brought on the grounds that: Plaintiffs lack standing to assert any of their claims (*see, e.g., Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992); *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1548 (2016)); Plaintiffs' consent to the conduct alleged bars all of their claims (*see, e.g., Cal. Civ. Code* § 3515; *Smith v. Facebook, Inc.*, 262 F. Supp. 3d 943, 953 (N.D. Cal. 2017); *In re Yahoo Mail Litig.*, 7 F. Supp. 3d 1016, 1028–32 (N.D. Cal. 2014)); the statute of limitations bars certain of Plaintiffs' claims (*see, e.g., Mangum v. Action Collection Serv., Inc.*, 575 F.3d 935, 940 (9th Cir. 2009); *Fox v. Ethicon Endo-Surgery, Inc.*, 35 Cal. 4th 797, 806 (2005)); and Plaintiffs fail to state a claim upon which relief may be granted (*see, e.g., Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).

Facebook's motion is based on this Notice of Motion and Motion, the accompanying Memorandum of Points and Authorities, and the Declarations of Michael Duffey filed on November 2, 2018 and December 21, 2018 (Dkts. 187, 236), any other matters of which the Court may take judicial notice, other documents on file in this action, and any oral argument of counsel.

DATE: March 15, 2019

Respectfully submitted,

**GIBSON, DUNN & CRUTCHER, LLP**

By: /s/ Orin Snyder  
Orin Snyder (*pro hac vice*)  
osnyder@gibsondunn.com  
GIBSON, DUNN & CRUTCHER LLP  
200 Park Avenue  
New York, NY 10166-0193  
Telephone: 212.351.4000  
Facsimile: 212.351.4035

Joshua S. Lipshutz (SBN 242557)  
jlipshutz@gibsondunn.com  
GIBSON, DUNN & CRUTCHER LLP  
1050 Connecticut Avenue, N.W.  
Washington, DC 20036-5306  
Telephone: 202.955.8500  
Facsimile: 202.467.0539

Kristin A. Linsley (SBN 154148)  
klinsley@gibsondunn.com  
Brian M. Lutz (SBN 255976)  
blutz@gibsondunn.com  
GIBSON, DUNN & CRUTCHER LLP  
555 Mission Street, Suite 3000  
San Francisco, CA 94105-0921  
Telephone: 415.393.8200  
Facsimile: 415.393.8306

*Attorneys for Defendant Facebook, Inc.*